

MEMORANDUM OF UNDERSTANDING

between

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
HOMELAND SECURITY INVESTIGATIONS**

and

Ohio State Highway Patrol

regarding

**THE DESIGNATION OF Ohio State Highway Patrol EMPLOYEES
AS CUSTOMS OFFICERS (EXCEPTED)**

1. **PARTIES.** The Parties to this Memorandum of Understanding (MOU) are U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and Ohio State Highway Patrol
2. **AUTHORITY.** Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a. This MOU is also authorized under the provisions of _____
3. **PURPOSE.** The Parties agree that effective enforcement of the laws relating to HSI jurisdiction requires close cooperation and coordination between the two Parties. The Parties have therefore entered into this MOU to govern the use of HSI designations by certain employees of Ohio State Highway Patrol

Pursuant to section 401(i), Tariff Act of 1930, as amended (19 U.S.C. § 1401(i)), the Secretary of Homeland Security is authorized to designate persons as Customs Officers (Excepted) to perform the duties of a Customs Officer. Within ICE, this authority has been delegated to the HSI Special Agents in Charge. Pursuant to 19 U.S.C. § 1589a, customs officers are authorized to enforce the full range of federal offenses. However, in designating Customs Officers (Excepted), *HSI is not conveying the authority to enforce administrative violations of immigration law.*

There may be instances when HSI determines that it is desirable for certain sworn law enforcement employees of Ohio State Highway Patrol to perform certain HSI duties. This MOU sets forth the agreement and relationship between the Parties with respect to this determination.

4. RESPONSIBILITIES.

The Parties agree as follows:

HSI agrees to:

- a. Designate certain employees of Ohio State Highway Patrol as Customs Officers (Excepted), without additional compensation, to perform the duties as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). This form is attached and is hereby made part of this MOU;
- b. Issue a "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) to each qualified and designated employee;
- c. Provide appropriate training in laws, policies, and procedures to each designated employee;

- d. Advise the designated Customs Officers (Excepted) about court proceedings concerning seizures or arrests made by them in accordance with the authorities granted by HSI contemplated under this MOU; and
- e. Process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to the designated Customs Officers (Excepted) while such individuals are acting pursuant to this MOU, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. § 8101, *et seq.*).

Ohio State Highway Patrol :

- a. That only sworn law enforcement officers of Ohio State Highway Patrol who successfully complete the appropriate HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) will be designated as Customs Officers (Excepted);
- b. That each law enforcement officer will be bound by the Authorities Granted and the Endorsements and Restrictions as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001);
- c. To advise HSI of each court proceeding in which the validity of a Customs Officer (Excepted)'s enforcement authority becomes an issue, and allow HSI to provide legal memoranda or other assistance as deemed necessary by HSI;
- d. That agency employees designated as Customs Officers (Excepted) will follow HSI directives and instructions when utilizing enforcement authority conveyed by HSI;
- e. To provide to HSI, before designation of each officer and on an ongoing basis, any derogatory information, or information that may call into question the officer's truthfulness or ability to testify in court; and
- f. To return all HSI-issued equipment and identification when a cross-designated officer terminates employment or when his or her cross-designation expires.

Both Parties agree:

- a. That any abuse of HSI cross-designation authority may lead to the revocation of such cross-designations by HSI; and
- b. To schedule periodic meetings to review this MOU, as required.

5. REPORTING AND DOCUMENTATION. HSI SAC offices will maintain the original signed "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). Copies of this form will be held by the Contraband Smuggling Unit at HSI Headquarters, the designated Customs Officer (Excepted), and the designated HSI Detroit Task Force Officer Coordinator.

If applicable, the HSI office will maintain documentation of designated Customs Officers (Excepted) approved to use HSI vehicles and certification that the designated Customs Officers (Excepted) have completed the ICE Fleet Cerd Training in Virtual University and any other fleet related training.

6. POINTS OF CONTACT.

HSI Office: Detroit, MI

Name: [REDACTED]

Title: Special Agent

Address: 477 Michigan Ave. Suite 1850
Detroit, MI 48226

Telephone Number: [REDACTED]

Fax Number: 313-226-3984

E-mail Address: [REDACTED]@dhs.gov

Ohio State Highway Patrol

Name: Kevin Dillard

Title: Lieutenant

Address: 1970 West Broad Street
Columbus, Ohio 43223

Telephone Number: [REDACTED]

Fax Number: (614) 644-6938

E-mail Address: KDillard@dps.ohio.gov

7. **OTHER PROVISIONS.** This MOU is an internal agreement between the Parties and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this MOU is intended to conflict with current laws, regulations, or policies of either Party. If a term of this MOU is inconsistent with such authority, that term shall be invalid but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519.

The forms and authorities referenced herein may be renamed or replaced by HSI without prejudice to this MOU.

8. **EFFECTIVE DATE.** The terms of this MOU will become effective on the date the last Party signs the MOU. The Designation Form of each Customs Officer (Excepted) is effective per the date on that document.

9. **MODIFICATION.** This MOU may be amended by the written concurrence of both Parties.


10. **TERMINATION.** This MOU may be terminated by either Party upon a 30-day written notification to the other Party.

APPROVED BY:


Steve K. Francis

Special Agent in Charge
Homeland Security Investigations
U.S. Immigration and Customs Enforcement

Date: _____



Colonel Paul Pride / Superintendent
Ohio State Highway Patrol



John Born, Director, Ohio Department of Public Safety

Date: 11/5/18

EXPIRATION DATE:

Expires no later than 2 years from certification date (#10)

HSI Credential Number:

Badge Number:
(if applicable)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
DESIGNATION, CUSTOMS OFFICER (EXCEPTED) – TITLE 19 TASK FORCE OFFICER
(Homeland Security Investigations Directive 14-02)

Pursuant to the provisions of 19 U.S.C. § 1401(i) and as delegated, and by agreement with your employing agency, you are hereby designated a Customs Officer (Excepted) without additional compensation, hereinafter referred to as a Title 19 Task Force Officer (TFO). This designation, for the performance of such duties as outlined below, will be in effect while you remain in your present position and location until the expiration date, unless revoked at an earlier date. In performing the duties of a TFO, you will be subject to guidelines, directives, and instructions of the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI). Arrangements will be made for you to receive the training necessary to perform your duties as a TFO according to HSI Directive 14-02, "Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes – Domestic", dated May 7, 2014, or as updated.

Duration of Designation: Designations under this Directive are valid for a period of 2 years from the date the TFO Course was completed. Title 19 TFOs may be redesignated for an additional 2 years, without additional training, upon the completion of a new Designation Form, ICE Form 73-001 (this form). Redesignation must be accomplished before the expiration of the original designation. Title 19 TFOs must attend the TFO Course no less than every 4 years to remain designated.

1. TFO's Full Legal Name: [REDACTED]		2. Last 4 of Social Security Number: [REDACTED]		3. Date of Birth: [REDACTED]	
4. Parent Agency (Full Name – NO ACRONYMS): Ohio State Highway Patrol		4a. Phone Number: +1 [REDACTED]		4b. Parent Agency E-mail: [REDACTED]@dps.ohio.gov	
Address 1970 West Broad Street		4c. ICE or DHS E-mail (Required for Full and Part-time TFOs):			
Columbus OH 43223 City State Zip Code		5. Parent Agency Position/Rank: Sergeant		6. Parent Agency Badge Number: [REDACTED] #	
7. Parent Agency Supervisor: Lieutenant Jon Payer		7a. Phone: +1 [REDACTED]		7b. E-mail: jpayer@dps.ohio.gov	
8. HSI Designated Supervisor: [REDACTED]		8a. Phone: +1 [REDACTED]		8b. E-mail: [REDACTED]@ice.dhs.gov	
9. HSI Office Assigned: Cincinnati		10. Certification/Recertification Date (Certification expires 2 years from): (Date of training completion or date recertified by the SAC for an additional 2 years prior to expiration of first 2 years.)			
11. Cancellation/Revoked Date:		Cancellation Authorizing Signature (HSI): (Expires 2 years from date above (#10), if no signature present)			
12. TFO Status:					
<input checked="" type="checkbox"/> Full-Time: A TFO who is co-located with HSI and is working directly for an HSI first- or second-line supervisor for a minimum of 30 hours per week and is significantly contributing to investigations. (ICE or DHS e-mail required)					
<input type="checkbox"/> Part-Time: A TFO who is co-located with HSI and is working directly for an HSI first- or second-line supervisor for a minimum of 8 hours per week and is significantly contributing to investigations. (ICE or DHS e-mail required)					
<input type="checkbox"/> On-Call: A TFO who does not meet the standards of either a Part-Time or Full-Time TFO, who is occasionally called upon to assist HSI, including officers working strictly in a uniformed capacity, who does not report directly to HSI. (ICE or DHS e-mail recommended; required to fly armed.)					
13. Authorities Granted:					
Only the marked duties are authorized for the TFO.					
<input checked="" type="checkbox"/> Carry a firearm, in accordance with federal law, that he or she is authorized and qualified to carry by his or her parent agency while on duty.					
<input checked="" type="checkbox"/> Execute and serve orders, search warrants, arrest warrants, subpoenas, summonses, and other processes issued under the authority of the United States, in accordance with laws administered and/or enforced by HSI.					
<input checked="" type="checkbox"/> Make arrests without warrant for any offense against the United States committed in his or her presence or for a felony, cognizable under the laws of the United States, committed outside his or her presence for which sufficient probable cause exists.					
<input checked="" type="checkbox"/> Perform other law enforcement duties which may be authorized under 19 U.S.C. § 1589a.					
<input checked="" type="checkbox"/> Make seizures of property in compliance with the Constitution of the United States and the Customs laws.					
<input checked="" type="checkbox"/> Conduct customs border searches for merchandise being imported into or exported from the United States, and detain such persons or articles necessary to that end, or as otherwise may be subject to seizure under the laws of the United States.					
<input type="checkbox"/> Other authorities: _____					

14. Endorsements and Restrictions:

The following marked endorsements and restrictions apply to the TFO:

- ☒ This designation form is **INVALID** without accompanying HSI Identification and employing agency Identification.
- ☒ The TFO shall follow the Interim ICE Use of Force Policy, dated July 7, 2004, or as updated or superseded.
- ☒ The TFO is not granted the authority to enforce administrative violations of immigration law.
- ☒ The TFO will present for inventory his or her HSI-issued credentials (and badge, if applicable) every 6 months or upon request of the HSI supervisor.
- ☒ Prior to using the authorities granted by this designation, notification will be made to an HSI supervisor or designee. (This restriction is *mandatory* for On-Call TFOs, and is otherwise discretionary.)
- ☒ The TFO is authorized to fly armed while conducting official HSI business. (ICE or DHS e-mail required.)
- ☒ The TFO is authorized to operate a government owned vehicle (GOV) in accordance with HSI policy.
- ☐ Other Endorsements and Restrictions: _____

***Refer to HSI Directive 14-02, "Law Enforcement Officers Designated to Act as Customs Officers (Excepted) for Investigative Purposes - Domestic," dated May 7, 2014, or as updated, for a complete explanation of authorities, endorsements, and restrictions.**

15. TFO's Acknowledgement:

I have read and understand the authorities granted to me and the endorsements and restrictions listed above and in the referenced Directive.

Task Force Officer's Signature _____

Date _____

16. Authorizing Officer (HSI SAC):

Printed Name _____

SPECIAL AGENT IN CHARGE

Title _____

X

Signature _____

Date _____

EXPIRATION DATE:

Expires no later than 2 years from certification date (#10)

HSI Credential Number:

Badge Number:
(if applicable)

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
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1. TFO's Full Legal Name: [REDACTED]		2. Last 4 of Social Security Number: [REDACTED]		3. Date of Birth: [REDACTED]	
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Address 1970 West Broad Street		4c. ICE or DHS E-mail (Required for Full and Part-time TFOs):			
Columbus OH 43223 City State Zip Code		5. Parent Agency Position/Rank: K-9 Trooper		6. Parent Agency Badge Number: [REDACTED] #	
7. Parent Agency Supervisor: Lieutenant Jon Payer		7a. Phone: +1 [REDACTED]		7b. E-mail: jpayer@dps.ohio.gov	
8. HSI Designated Supervisor: [REDACTED]		8a. Phone: +1 [REDACTED]		8b. E-mail: [REDACTED]@ice.dhs.gov	
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- ☐ Other Endorsements and Restrictions: _____

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15. TFO's Acknowledgement:

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Task Force Officer's Signature

Date

16. Authorizing Officer (HSI SAC):

Printed Name

SPECIAL AGENT IN CHARGE

Title

X

Signature

Date